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Attorneys for Defendant
International Business Machines
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Attorney for Plaintiff Gregory Bender

E-FILED - 5/6/10

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Gregory Bender,

Plaintiff,

v.

International Business Machines
Corporation,

Defendant.

Case No. C 09-01249 RMW (PVT)

**STIPULATION AND []
ORDER REGARDING SELECTED
ADR PROCESS**

Plaintiff Gregory Bender ("Plaintiff") and Defendant International Business Machines Corporation ("Defendant"), through their respective counsel, hereby make the following stipulation:

WHEREAS, on August 17, 2009, the parties filed a Stipulation and Proposed Order Selecting ADR Process, which selected Court Mediation Process under ADR L.R. 6. (D.I. 14).

WHEREAS, on September 3, 2009, the Court granted the proposed order and referred the parties to Court Mediation Process. (D.I. 16).

WHEREAS, the parties now wish to change the designated ADR process to private mediation.

THE PARTIES HEREBY STIPULATE THAT:

(1) This case will be removed from the Court Mediation Process.

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(2) The parties instead stipulate to private mediation with mediator Randall Wulff of Wulff, Quinby & Sochynsky, or, if Mr. Wulff is unavailable and both parties agree on a different mediator, with a different mediator.

(3) The private mediation will be completed by 90 days following the issuance of the claim construction order in this action.

Respectfully submitted,

Dated: April 2, 2010

Jones Day

By: /s/ Gregory Lippetz

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Counsel for Defendant International Business
Machines Corporation

In accordance with General Order No. 45, Section X(B), the above signatory attests that concurrence in the filing of this document has been obtained from the signatory below.

Dated: April 2, 2010

By: /s/ David Kuhn

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144 Hagar Avenue
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Telephone: (510) 653-4983

Counsel for Plaintiff Gregory Bender

PURSUANT TO STIPULATION, IT IS SO ORDERED:

DATED: 5/6, 2010

By: 
THE HON. RONALD M. WHYTE
United States District Court Judge

SVI-79175v1